

REMARKS

In the Official Action mailed on October 1, 2003 the Examiner reviewed claims 1-24. Claims 1, 9, and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Kitai et al. (USPN 5,440,750, hereinafter "Kitai"). Claims 1-4, 7-12, 15-20, and 23-24 were rejected under 35 U.S.C. §102(e) as being anticipated by Weinberg et al. (USPN 6,549,944, hereinafter "Weinberg"). Claims 5, 13, and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weinberg. Claims 6, 14, and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weinberg in view of Sager (USPub. 2003/0158885, hereinafter "Sager") and further in view of Maeda (USPN 4, 621, 318, hereinafter "Maeda").

Rejections under 35 U.S.C. §102(b), 35 U.S.C. §102(e), and 35 U.S.C. §103(a)

Claims 1, 9, and 17 were rejected as being anticipated by Kitai. Claims 1, 9, and 17 were rejected as being anticipated by Weinberg. Applicant respectfully points out that Kitai teaches using a busy wait timer to **time the wait for a compare and wait instruction** to determine when an upper time limit is reached (see Kitai, col. 14, lines 27-42, col. 4, lines 34-37, and col. 3, lines 41-57). Weinberg teaches a multi-threaded process for **scanning and mapping a Web site** (see Weinberg, col. 20, lines 26-39).

In contrast, the present invention is directed toward constructing a performance model, wherein the performance model is a **queuing system model** in which synchronization points in the application are represented by service centers in the queuing system model (see page 9, lines 3-5 of the instant application). There is nothing within Kitai or Weinberg, either explicit or implicit, which would suggest constructing a performance model, wherein the performance model is a queuing system model in which synchronization points in the application are represented by service centers in the queuing system model.


Accordingly, Applicant has amended independent claims 1, 9, and 17 to clarify that the present invention constructs a performance model, wherein the performance model is a queuing system model in which synchronization points in the application are represented by service centers in the queuing system model. These amendments find support on page 9, lines 3-5 of the instant application.

Hence, Applicant respectfully submits that independent claims 1, 9, and 17 as presently amended are in condition for allowance. Applicant also submits that claims 2-8, which depend upon claim 1, claims 10-16, which depend upon claim 9, and claims 18-23, which depend upon claim 17, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

CONCLUSION

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

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